

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLARENCE A. SIMS,

Petitioner,

v.

CASE NO. 04-CV-73998-DT
HONORABLE VICTORIA A. ROBERTS

MARY K. BERGHUIS,

Respondent.

_____ /

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

Respondent has moved to have the Court reconsider its opinion and order granting an evidentiary hearing on Petitioner's second and third habeas claims. Respondent acknowledges that the Court possesses discretionary authority to hold an evidentiary hearing in habeas cases. She nevertheless wants the Court to "remand" this case to the trial court for the hearing. She argues that the trial court is in the best position to review Petitioner's claims and to expand the record.

The United States Court of Appeals for the Sixth Circuit has stated that it would be error for a federal habeas court to "remand" an action to the state courts or to order a state court to issue fuller findings to facilitate federal habeas review. *See Harris v. Stovall*, 212 F.3d 940, 943 n.1 (6th Cir. 2000). Accordingly, Respondent's motion for reconsideration [Doc. 32, Dec. 18, 2006] is DENIED.

S/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: January 22, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 22, 2007.

S/Carol A. Pinegar _____
Deputy Clerk